

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**RECEIVED**  
BY  DATE 2/22/08

TRAVELERS CASUALTY AND SURETY COMPANY as  
Administrator for RELIANCE INSURANCE COMPANY,

Plaintiff,

vs.

07-CV-6915 (DLC)  
ECF CASE

DORMITORY AUTHORITY – STATE OF NEW YORK,  
TDX CONSTRUCTION CORP. and KOHN PEDERSEN  
FOX ASSOCIATES, P.C.,

Defendants.

DORMITORY AUTHORITY OF THE STATE OF NEW YORK  
AND TDX CONSTRUCTION CORP.,

Third-Party Plaintiffs,

vs.

**MOTION TO  
ADMIT COUNSEL  
PRO HAC VICE  
-BRETT L. WARNING**

TRATAROS CONSTRUCTION, INC.,

Third-Party Defendant.

TRATAROS CONSTRUCTION, INC. and TRAVELERS  
CASUALTY AND SURETY COMPANY,

Fourth-Party Plaintiffs,

vs.

CAROLINA CASUALTY INSURANCE COMPANY; BARTEC  
INDUSTRIES, INC.; DAYTON SUPERIOR SPECIALTY  
CHEMICAL CORP. a/k/a DAYTON SUPERIOR CORPORATION;  
SPECIALTY CONSTRUCTION BRANDS, INC. t/a TEC;  
KEMPER CASUALTY INSURANCE COMPANY d/b/a KEMPER;  
INSURANCE COMPANY; GREAT AMERICAN INSURANCE  
COMPANY; NATIONAL UNION FIRE INSURANCE  
COMPANY OF PITTSBURGH, PA; UNITED STATES FIRE  
INSURANCE COMPANY; ALLIED WORLD ASSURANCE

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COMPANY (U.S.) INC. f/k/a COMMERCIAL UNDERWRITERS :  
INSURANCE COMPANY; ZURICH AMERICAN INSURANCE' :  
COMPANY d/b/a ZURICH INSURANCE COMPANY; OHIO :  
CASUALTY INSURANCE COMPANY d/b/a OHIO CASUALTY :  
GROUP; HARLEYSVILLE MUTUAL INSURANCE COMPANY :  
(a/k/a HARLEYSVILLE INSURANCE COMPANY); JOHN DOES :  
1-20 and XYZ CORPS. 1-20, :  
: :  
: :  
Fourth-Party Defendants. :

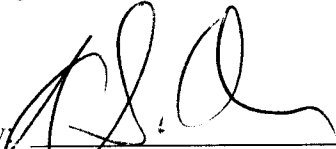
PURSUANT TO RULE 1.3(c) of the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York, I, Michael S. Miller, a member in good standing of the bar of this Court, hereby move for an Order allowing the admission, pro hac vice, of:

Applicant's Name: Brett L. Warning  
Firm Name: Bollinger, Ruberry & Garvey  
Address: 500 West Madison Street, 23<sup>rd</sup> Floor  
City/State/Zip: Chicago, Illinois 60661  
Telephone: (312) 466-8000  
Fax: (312) 466-8001  
Email address: [brett.warning@brg-law.net](mailto:brett.warning@brg-law.net)

Brett L. Warning is a member in good standing of the Bars of the States of Illinois and Colorado and is admitted to practice in the United States Court of Appeals for the Seventh Circuit, and the United States District Courts for the Northern District of Illinois, Central District of Illinois, and Western District of Wisconsin. There are no pending disciplinary proceedings against Brett L. Warning in any state or federal court. Attached hereto are a Certificate of Admission to the Bar of Illinois and a Certificate of good standing from the State of Colorado Supreme Court for Mr. Warning.

Dated: February 21, 2008  
New York, New York

Respectfully submitted,

By: 

Michael S. Miller  
Tompkins, McGuire, Wachenfeld & Barry, LLP  
140 Broadway  
51<sup>st</sup> Floor  
New York, New York 10005  
(212) 714-1720

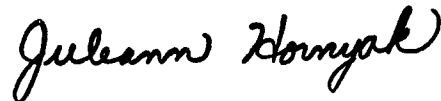
## **Certificate of Admission To the Bar of Illinois**

I, Juleann Hornyak, Clerk of the Supreme Court of Illinois, do hereby certify that

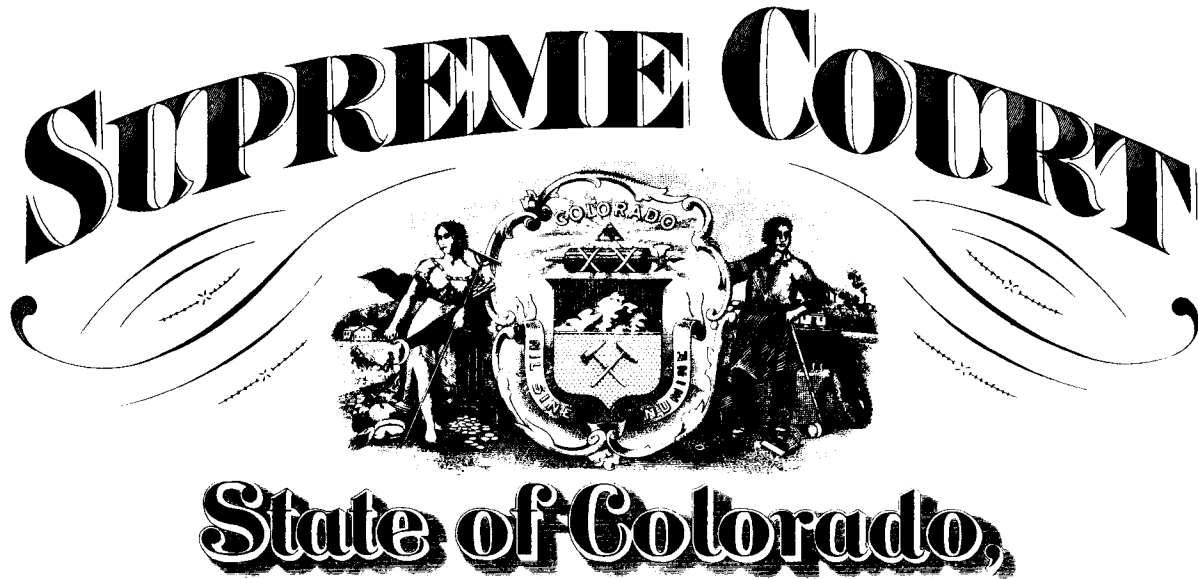
Brett Lee Warning

has been duly licensed and admitted to practice as an Attorney and Counselor of Law within this State; has duly taken the required oath to support the CONSTITUTION OF THE UNITED STATES and of the STATE OF ILLINOIS, and also the oath of office prescribed by law, that said name was entered upon the Roll of Attorneys and Counselors in my office on November 10, 1988 and is in good standing, so far as the records of this office disclose.

In Witness Whereof, I have hereunto  
placed my hand and affixed the seal  
of said Supreme Court, at Springfield,  
in said State, this Thursday, January 24, 2008.

A handwritten signature in black ink, reading "Juleann Hornyak". The signature is written in a cursive, flowing style.

Clerk



STATE OF COLORADO, ss:

I, Susan J. Festag Clerk of the Supreme Court of the State of Colorado, do hereby certify that

BRETT LEE WARNING

has been duly licensed and admitted to practice as an

ATTORNEY AND COUNSELOR AT LAW

within this State; and that his/her name appears upon the Roll of Attorneys and Counselors at Law in my office of date the 26<sup>th</sup>

day of March A. D. 1999 and that at the date hereof the said BRETT LEE WARNING

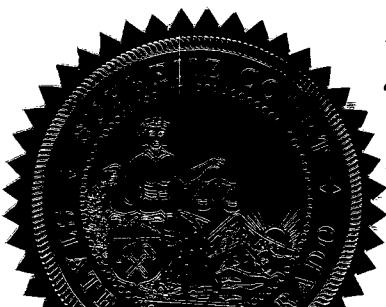
is in good standing at this Bar.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the Seal of said Supreme Court, at Denver, in said State, this

25<sup>th</sup> day of January A. D. 2008

Susan J. Festag

Clerk



**DECLARATION OF SERVICE**

The undersigned hereby declares, under penalty of perjury, that on February 21, 2008, he caused a true copy of the foregoing Motion and the supporting Declaration of Michael S. Miller. to be served via first class mail upon counsel for the various parties as follows:

JoAnne M. Bonacci, Esq.

**DREIFUSS BONACCI & PARKER, LLP,**

Attorneys for Fourth-Party Plaintiffs,

*TRATAROS CONSTRUCTION, INC AND TRAVELERS*

*CASUALTY AND SURETY COMPANY*

26 Columbia Turnpike - North Entrance

Florham Park, NJ 07932

Tel: (973) 514-1414

Fax: (973) 514-5959

email: [jbonacci@dbplawfirm.com](mailto:jbonacci@dbplawfirm.com)

David Abramovitz, Esq.

**ZETLIN & DECI-HARA, LLP**

Attorneys for Defendants/Third-Party Plaintiff,

*KOHNJ PEDERSON, FOX & ASSOCIATES, P.C*

501 Second Avenue

New York, NY 10017

Tel: (212) 682-6800

Fax: (212) 682-6861

Email: [dabramovitz@zdlaw.com](mailto:dabramovitz@zdlaw.com)

Robert R. Rigolosi

**SEGAL McCAMBRIDGE SINGER & MAHONEY**

Attorneys for Fourth-Party Defendant

*SPECIALTY CONSTRUCTION BRANDS, INC. t/a TEC*

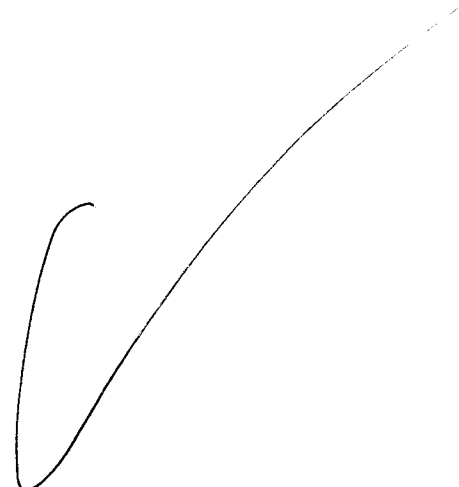
830 Third Aye, Suite 400

NY, NY 10022

Tel: (212) 651-7500/(212) 651-7423

Fax: (212) 651-7499

email: [rrigolosi@msm.com](mailto:rrigolosi@msm.com)

A large, handwritten mark resembling a checkmark or a stylized 'V' is drawn on the right side of the page, spanning the vertical space of the David Abramovitz and Robert R. Rigolosi contact information blocks.

Gary Wirth, Esq.

**TORRE, LENTZ, GAMMELL, GARY & RITTMASER, LLP**

Attorneys for Fourth-Party Defendant

*I. CAROLINA CASUALTY INSURANCE COMPANY*

100 Jericho Quadrangle, Suite 309

Jericho, NY 11753

Tel: (516) 240-8900

Fax: (516) 240-8950

Email: [gwirth@tlggr.com](mailto:gwirth@tlggr.com)

Robert Mark Wasko, Esq.

**TORRE, LENTZ, GAMMELL, GARY & RITTMASER, LLP**

*Co-Counsel for Fourth-Party Defendant*

*CAROLINA CASUALTY INSURANCE COMPANY*

226 West 26<sup>th</sup> Street, 8<sup>th</sup> Floor

New York, NY 10001

Tel: (516) 240-8900

Fax: (212) 691-6452

William Kelly, Esq.

Suzin L. Raso, Esq.

**GOLDBERG SEGALL, LLP.**

Attorneys for Fourth-Party Defendant

*DAYTON SUPERIOR SPECIALTY CHEMICAL CORP.*

a/k/a *DAYTON SUPERIOR CORP.*

170 Hamilton Avenue, Suite 203

White Plains, New York 10601

Tel: (914) 798-5400

Fax: (914) 798-5401

email: [wkelly@goldbergsegalla.com](mailto:wkelly@goldbergsegalla.com)

email: [sraso@goldbergsegalla.com](mailto:sraso@goldbergsegalla.com)

Henry G. Morgan, Esq.

Joseph DeDonato, Esq.

**MORGAN, MELHUIS, ABRUTYN**

Attorneys for Fourth-Party Defendant

*OHIO CASUALTY INSURANCE COMPANY*

651 West Mt. Pleasant Avenue, Suite 200

Livingston, NJ 07039

Tel: (973) 994-2500

Fax: (973) 994-3375

email: [counsel@morganlawfirm.com](mailto:counsel@morganlawfirm.com)

Donald G. Sweetman, Esq.

**GENNET, KALLMANN, ANTIN & ROBINSON, P.C.**

Attorney for Fourth-Party Defendants

*GREAT AMERICAN INSURANCE COMPANY,*

*AMERICAN ALLIANCE INSURANCE COMPANY,*

*AMERICAN NATIONAL FIRE INSURANCE COMPANY*

*and GREAT AMERICAN INSURANCE COMPANY OF NEW YORK*

6 Campus Drive

Parsippany, NJ 07054

Tel: (973) 285-1919

Fax: (973) 285-1177

Email: [dsweetman@gkar-law.com](mailto:dsweetman@gkar-law.com)

Ann Odelson, Esq.

John P. DeFilippis, Esq.

**CARROLL, MCNULTY & KULL**

Attorney for Fourth-Party Defendant

*UNITED STATE FIRE INSURANCE COMPANY*

570 Lexington Avenue

New York, NY 10022

Tel: (212) 252-0004

Fax: (212) 252-0444

S. Dwight Stephens, Esq.

**MELITO & ADOLFSSEN, P.C.**

Attorneys for Fourth-Party Defendant

*ZURICH AMERICAN INSURANCE COMPANY*

233. Broadway

New York, NY 10279

Tel: (212) 238-5900

Fax: (212) 238-8999

Email: [sds@melitoadolfssen.com](mailto:sds@melitoadolfssen.com)



Martin Paul Lavelle, Esq.

Erika L. Aljens, Esq.

**GREEN & LAVELLE**

Attorneys for Fourth-Party Defendant,

*NATIONAL UNION FIRE INSURANCE*

*COMPANY OF PITTSBURGH, PA*

110 William Street

New York, NY 10038

Tel: (212) 266-5580/5881

Fax: (212) 528-0134

Email: [martin.lavelle@aig.com](mailto:martin.lavelle@aig.com)

Email: [erika.aljiens@aig.com](mailto:erika.aljiens@aig.com)

Diana E. Goldberg, Esq.

**MOUND COTTON WOLLAN & GREENGRASS**

Attorneys for Fourth-Party Defendant

*COMMERCIAL UNDERWRITERS INSURANCE*

*COMPANY and ALLIED WORLD ASSURANCE*

*COMPANY (U.S.) INC.*

One Battery Park Plaza, 9th Floor

New York, NY 10004-1486

Tel: (212) 804-4200

Fax: (212) 344-8066

Email: [dgoldberg@moundcotton.com](mailto:dgoldberg@moundcotton.com)

Timothy B. Froessell, Esq.

**HOLLAND & KNIGHT, LLP**

Attorneys for Defendants/Third-Party Plaintiffs,

*DORMITORY AUTHORITY- STATE OF NEW YORK*

*and TDX CONSTRUCTION CORP.*

195 Broadway

New York, NY 10007

Tel: (212) 513-3484

Fax: (212) 385-9010

email: [tbfroess@hklaw.com](mailto:tbfroess@hklaw.com)

Tracey K. Wishert, Esq.

Lance J. Kalik, Esq.

**RIKER, DANZIG, SCHERER, HYLAND & PERRETTI, LLP**

Attorneys for Fourth-Party Defendant,

*HARLEYSVILLE MUTUAL INSURANCE COMPANY*

*(a/k/a HARLEYSVILLE INSURANCE COMPANY)*

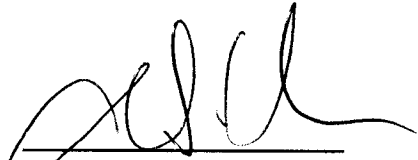
Headquarters Plaza

One Speedwell Avenue  
Morristown, New Jersey 07960  
Tel: (973) 451-3862  
Fax: (973) 451-3714  
email: [twishert@riker.com](mailto:twishert@riker.com)  
email: [lkalik@riker.com](mailto:lkalik@riker.com)

Vincent Zichello, Esq.  
**ZICHELO & MCINTYRE, LLP**  
Attorneys for Fourth-Party Defendant,  
*CAROLINA CASUALTY INSURANCE COMPANY*  
420 Lexington Avenue, Suite 2800  
New York, New York 10170  
Tel: (212) 972-5560  
Fax: (212) 972-5569

Jeremy Platek, Esq.  
**O'CONNOR, REDD, GOLLIHUE & SKLARIN, LLP**  
Attorneys for Fourth -Party Defendant,  
*BARTEC INDUSTRIES, INC.*  
200 Mamaroneck Avenue  
White Plains, New York 10601  
Tel: (914) 686-1700 x 239  
Fax: (914) 328-3184

DATED: February 21, 2008

  
Michael S. Miller

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

TRAVELERS CASUALTY AND SURETY COMPANY as  
Administrator for RELIANCE INSURANCE COMPANY,

Plaintiff,

VS.

DORMITORY AUTHORITY – STATE OF NEW YORK,  
TDX CONSTRUCTION CORP. and KOHN PEDERSEN  
FOX ASSOCIATES, P.C.,

Defendants.

DORMITORY AUTHORITY OF THE STATE OF NEW YORK  
AND TDX CONSTRUCTION CORP.,

Third-Party Plaintiffs,

VS.

TRATAROS CONSTRUCTION, INC.,

Third-Party Defendant.

TRATAROS CONSTRUCTION, INC. and TRAVELERS  
CASUALTY AND SURETY COMPANY,

## Fourth-Party Plaintiffs,

VS.

CAROLINA CASUALTY INSURANCE COMPANY; BARTEC :  
INDUSTRIES, INC.; DAYTON SUPERIOR SPECIALTY :  
CHEMICAL CORP. a/k/a DAYTON SUPERIOR CORPORATION: :  
SPECIALTY CONSTRUCTION BRANDS, INC. t/a TEC; :  
KEMPER CASUALTY INSURANCE COMPANY d/b/a KEMPER: :  
INSURANCE COMPANY; GREAT AMERICAN INSURANCE :  
COMPANY; NATIONAL UNION FIRE INSURANCE :  
COMPANY OF PITTSBURGH, PA; UNITED STATES FIRE :  
INSURANCE COMPANY; ALLIED WORLD ASSURANCE :

07-CV-6915 (DLC)  
ECF CASE

**DECLARATION OF  
MICHAEL S. MILLER  
IN SUPPORT OF  
MOTION TO ADMIT  
COUNSEL  
PRO HAC VICE**

COMPANY (U.S.) INC. f/k/a COMMERCIAL UNDERWRITERS :  
INSURANCE COMPANY; ZURICH AMERICAN INSURANCE' :  
COMPANY d/b/a ZURICH INSURANCE COMPANY; OHIO :  
CASUALTY INSURANCE COMPANY d/b/a OHIO CASUALTY :  
GROUP; HARLEYSVILLE MUTUAL INSURANCE COMPANY :  
(a/k/a HARLEYSVILLE INSURANCE COMPANY); JOHN DOES :  
1-20 and XYZ CORPS. 1-20, :  
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\_\_\_\_\_  
Fourth-Party Defendants. :

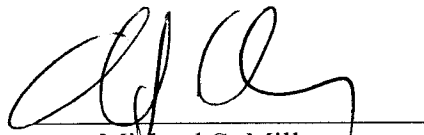
Michael S. Miller, of full age, subscribes and affirms under penalty of perjury as follows,  
pursuant to 28 U.S.C. §1746:

1. I am a partner at Tompkins, McGuire, Wachenfeld & Barry, LLP, counsel to Fourth-Party Defendant Lumbermens Mutual Casualty Company ("LMC"), improperly sued as Kemper Casualty Insurance Company d/b/a Kemper Insurance Company in the above-captioned action. I am fully familiar with the proceedings in this case. I make this statement based on my personal knowledge of the facts set forth herein and in support of LMC's motion to admit Brett L. Warning as counsel, pro hac vice, to represent LMC in this matter.
2. I am a member in good standing of the bars of the State of New York and the State of New Jersey and was admitted to practice law in the State of New York in 1986. I am also admitted to the bars of the United States Circuit Courts of Appeal for the Second and Third Circuits and the United States District Courts for the Southern District of New York, the Eastern District of New York and the District of New Jersey, and am in good standing with those Courts.
3. I have known Mr. Warning for several months.

4. Mr. Warning is an associate at Bollinger, Ruberry & Garvey in Chicago, Illinois.
5. I have found Mr. Warning to be a skilled attorney and a person of integrity. He is experienced in federal practice and is familiar with the Federal Rules of Civil Procedure.
6. Accordingly, I am pleased to move for the admission of Brett L. Warning, pro hac vice.
7. I respectfully submit a proposed order granting the admission of Brett L. Warning, pro hac vice, which is attached hereto as Exhibit A.

WHEREFORE, it is respectfully requested that this motion to admit Brett L. Warning, pro hac vice, to represent Fourth-Party Defendant LMC in the above-captioned matter, be granted.

DATED: February 21, 2008



Michael S. Miller

# **EXHIBIT A**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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TRAVELERS CASUALTY AND SURETY COMPANY as  
Administrator for RELIANCE INSURANCE COMPANY,

Plaintiff,

vs.

DORMITORY AUTHORITY – STATE OF NEW YORK,  
TDX CONSTRUCTION CORP. and KOHN PEDERSEN  
FOX ASSOCIATES, P.C.,

Defendants.

---

DORMITORY AUTHORITY OF THE STATE OF NEW YORK  
AND TDX CONSTRUCTION CORP.,

Third-Party Plaintiffs,

vs.

TRATAROS CONSTRUCTION, INC.,

Third-Party Defendant.

---

TRATAROS CONSTRUCTION, INC. and TRAVELERS  
CASUALTY AND SURETY COMPANY,

Fourth-Party Plaintiffs,

vs.

CAROLINA CASUALTY INSURANCE COMPANY; BARTEC  
INDUSTRIES, INC.; DAYTON SUPERIOR SPECIALTY  
CHEMICAL CORP. a/k/a DAYTON SUPERIOR CORPORATION;  
SPECIALTY CONSTRUCTION BRANDS, INC. t/a TEC;  
KEMPER CASUALTY INSURANCE COMPANY d/b/a KEMPER  
INSURANCE COMPANY; GREAT AMERICAN INSURANCE  
COMPANY; NATIONAL UNION FIRE INSURANCE  
COMPANY OF PITTSBURGH, PA; UNITED STATES FIRE  
INSURANCE COMPANY; ALLIED WORLD ASSURANCE  
COMPANY (U.S.) INC. f/k/a COMMERCIAL UNDERWRITERS  
INSURANCE COMPANY; ZURICH AMERICAN INSURANCE  
COMPANY d/b/a ZURICH INSURANCE COMPANY; OHIO

07-CV-6915 (DLC)  
**ECF CASE**

**ORDER FOR  
ADMISSION  
PRO HAC VICE  
OF BRETT L.  
WARNING  
ON WRITTEN  
MOTION**

CASUALTY INSURANCE COMPANY d/b/a OHIO CASUALTY :  
GROUP; HARLEYSVILLE MUTUAL INSURANCE COMPANY :  
(a/k/a HARLEYSVILLE INSURANCE COMPANY); JOHN DOES :  
1-20 and XYZ CORPS. 1-20, :

Fourth-Party Defendants. :

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Upon the motion of Michael S. Miller, attorney for Lumbermens Mutual Casualty Company and said sponsor attorney's declaration in support,

**IT IS HEREBY ORDERED** that:

Applicant's Name: Brett L. Warning  
Firm Name: Bollinger, Ruberry & Garvey  
Address: 500 West Madison Street, 23<sup>rd</sup> Floor  
City/State/Zip: Chicago, Illinois 60661  
Telephone/Fax: (312) 466-8000 / (312) 466-8001  
Email address: brett.warning@brg-law.net

is admitted to practice pro hac vice for Fourth-Party Defendant Lumbermens Mutual Casualty Company, improperly sued as Kemper Casualty Insurance Company, d/b/a Kemper Insurance Company, in the above captioned case in the United States District Court for the Southern District of New York. All attorneys appearing before this Court are subject to the Local Rules of this Court, including Rules governing discipline of attorneys. Counsel shall immediately apply for an ECF password at nyds.courts.gov. Counsel shall forward the pro hac vice fee to the Clerk of the Court.

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United States District / Magistrate Judge